

Allegheny County Health Department Title V Program Evaluation – August 15, 2017**I. Introduction**

On August 15, 2017, the U.S. Environmental Protection Agency (EPA) conducted an evaluation of the Allegheny County Health Department's (ACHD) approved Title V Operating Permits Program. Representatives from the EPA Region III Air Protection Division, Office of Permits and State Programs (OPSP) travelled to ACHD's office located in Pittsburgh, PA. Present from EPA were David Campbell (Associate Director), David Talley, and Mary Cate Opila, all from OPSP. Present from ACHD were JoAnn Truchan (Air Quality Program Permitting Branch Chief) and Jayme Graham (Air Quality Program Manager). The evaluation was conducted as a part of EPA's routine oversight of state/local permitting activities. EPA thanks ACHD for their hospitality and cooperation.

II. Background

EPA granted full approval to ACHD's title V program effective on December 17, 2001.¹ Subsequent to the full approval, EPA conducted a title V program evaluation in 2011. The report from the 2011 program evaluation concluded that ACHD's process to prepare title V permits, periodic monitoring requirements, and the public participation process were adequate. However, a backlog in initial and renewal title V permits was noted in the report. ACHD managers expected the permit backlog to improve in the period following the 2011 program evaluation.

The Pennsylvania Department of Environmental Protection (PA DEP) is responsible for submitting the State Implementation Plan (SIP) and title V air permitting programs for Pennsylvania to EPA for approval. In addition to PA DEP, local air quality control agencies within the Commonwealth of Pennsylvania are operated by ACHD and the City of Philadelphia. State law and delegation agreements describe the roles and responsibilities of each agency and delineate jurisdiction of sources between PA DEP and local air quality agencies.

III. Evaluation

Because EPA routinely reviews proposed title V permits which are submitted to EPA during the course of their regular issuance, EPA did not conduct a file review during this current evaluation. Rather, EPA and ACHD engaged in a focused dialogue about the following topics: title V permit preparation and content, monitoring and recordkeeping, public participation and outreach, permit issuance, compliance, resources and internal management support, and title V fees. The conversation addressed a number of specific program issues and the results of these discussions are described in this report.

¹ See "Clean Air Act Full Approval of Partial Operating Permit Program; Allegheny County; Pennsylvania." 66 Fed. Reg. 212 (November 1, 2001), pp. 55112-55115

A. Title V Permit Preparation and Content

1. Overview and Improvements

In the ACHD permitting office, there are one branch chief, seven permit engineers, and one clerk. Having been in the position for less than one year, the permitting branch chief is relatively new to the position.

Over the past year, the permitting office has worked to improve the title V permit issuance process through workload management and tool development. For instance, title V facility responsibilities were reassigned/redistributed to the permit engineering staff to more equitably balance workload and to better develop and leverage experience. Spreadsheet tracking tools were updated to improve tracking of the permit review and issuance process. A “permit engineer’s handbook” geared towards enhancing the consistency of the permit review and issuance process was created and will soon be finalized by the permitting staff (see Appendix 1 for the Table of Contents of this document).

Other tools that are available to permitting staff include an “Air Quality Permit Application Checklist,” (Appendix 2) and “IP/OP Processing Checklist,”² (Appendix 3) which were developed in 2008. Additionally, a “Permit Review & Permit Decision Guarantee” flowchart (Appendix 4a), and associated policy document (Appendix 4b) were developed in 2013. A “Permitting Process” (Appendix 5) flowchart details the required steps within ACHD from the receipt of the application to the issuance of the permit. A “Permit Application Package Checklist” was developed to assist facilities in ensuring applications include all required documentation (Appendix 6). In addition to this checklist, ACHD permitting staff conduct pre-issuance site visits and/or communication with the source to assure application and permit accuracy.

Facilities permits are divided and assigned to permit engineers by the permitting branch chief largely on a sector basis. The permit engineer is responsible for determining whether an application is administratively and technically complete, preparing a technical support document, and preparing a pre-draft permit.

After preparing a pre-draft permit, the permit engineer sends the permit to the permitting branch chief. The permitting branch chief either reviews it and/or sends the pre-draft permit to another senior engineer for review and assessment. The pre-draft permit is sent to the company for a one-week review. Next, the draft permit is made available for public review and for review by EPA. After the public comment period, ACHD develops a response-to-comments document that addresses any comments that are received and makes any appropriate revisions to the draft permit as a result of those comments. Once that process is complete, ACHD sends the response-to-comments document and a proposed permit to EPA for the Agency-only 45-day review period. If EPA supports the manner in which ACHD addressed the public comments and any related changes to the draft permit and, thus, does not object to the issuance of the permit, ACHD issues the final permit.

² IP refers to installation permit, and OP refers to operating permit

In addition to regular reviews of ACHD's draft and proposed title V permits, EPA and ACHD participate in tri-weekly phone calls. The status of title V permits, permit-specific issues, and other salient issues are discussed during these calls. Additionally, changes to and questions about EPA guidance and policy are discussed during these calls.

2. Opportunities for Further Improvement

ACHD has made recent changes to address some issues regarding the title V permit preparation process. However, the continued backlog (as discussed in the "Permit Issuance" section of this document) indicates that ACHD must further improve its process of title V permit preparation. The main areas for improvement include improved workload distribution, more efficient data management, and a more strategic integration of the multiple permit programs so as to minimize delay in title V permit issuance.

A primary challenge to ACHD's ability to adequately implement the title V permitting program is that the current permitting workload exceeds existing staffing levels. Though process improvements may help permit writers become more efficient in issuing permits, permit engineers staffing levels should be increased to a level sufficient for current workloads (see "Resources and Internal Management Support" section of this document for a detailed discussion).

In addition to increasing staffing levels, other areas were also identified where ACHD can improve the permitting process. For instance, the software tools for tracking active permits should be enhanced. An Oracle tracking system was previously developed, but the system did not fulfill the needs of the permitting staff. Instead, the Oracle tracking system is used for some data elements, and two additional spreadsheets (one for title V sources, and the other for minor and synthetic minor sources) are used to track other necessary data elements. The redundancy of entering permits into multiple tracking tools is an area for improvement.

The tracking of additional information, such as the time lapse in a facility's response to requests and the types of equipment in each permit could be used in expediting the permitting process. ACHD spends a significant amount of time seeking information from the applicants, which slows the permit processing. A best practice employed by other permitting authorities with some success is the establishment of formal due dates for the provision of the identified additional application information. By tracking the time lapse in a facility's response to requests, ACHD would be able to set and monitor deadlines for a facility's responses. Additionally, if the types of equipment in each permit were tracked, permit engineers could use this information to facilitate modeling permits on previously issued permits.

The permit preparation process could also be further improved through a more strategic integration of the multiple permit programs so as to not delay title V permit issuance. Installation permits have historically been prioritized, and renewals of title V permits have been delayed if modifications are pending. However, this approach has contributed to a backlog of title V permits. A more sustained focus on eliminating the backlog of title V permits is warranted than has historically occurred. In addition to prioritizing backlogged title V permits,

developing permit templates for specific sources and permit types could also be beneficial in facilitating efficient permit processing. EPA encourages ACHD to continue to develop and utilize additional tools or templates useful in making the permitting process more efficient.

B. Monitoring and Record Keeping

Federal regulations require that each title V permit contain sufficient monitoring to ensure compliance with each applicable requirement in the permit. The permitting agency should supply a rationale in the statement of basis (SOB) accompanying the permit that justifies the type of monitoring chosen. A similar process is followed for recordkeeping and reporting requirements.

ACHD's implementation of Compliance Assurance Monitoring (CAM) was discussed. ACHD performs a review of CAM applicability when a permit application is received, and there is an item on the application checklist stating that CAM needs to be addressed. ACHD stated that they have encountered very few permit applications from sources where CAM is required. If CAM is required, the permitting group coordinates with the enforcement group to develop requirements on a case-by-case basis.

C. Public Participation and Outreach

Public participation is a crucial component of any well-functioning title V permitting program. ACHD employs a number of methods for informing the public of opportunities to comment on draft title V permits. Permit information, including the receipt of complete applications, public comment notices, and notices of issued permits, are published on ACHD's website. As well as information is also published in the *Pittsburgh Tribune Review*. In addition to displaying the notices of current permitting actions, ACHD's website also includes a document outlining the status of the title V operating permits for all title V facilities in Allegheny County. For title V permits, a public hearing is automatically scheduled. These hearings typically take place during an evening at the end of the public comment period.

Parties interested in reviewing draft title V permits may do so in person or online on ACHD's website. Comments on draft permits may be submitted electronically, by mail, or in person during a hearing. The public comment period for both title V permits and minor source operating permits typically extends for 30 days. ACHD may grant requests to extend the 30-day public comment period if there is an extenuating circumstance, although this has only happened once.

D. Permit Issuance

The backlog in title V permit issuance has improved since the last review. However, ACHD continues to have a significant percentage of title V permits which are administratively extended or backlogged. At the time of the evaluation, ten permits were expired and beyond

the 18-month review period, and three title V permittees awaited initial permits. This results in 13 out of 32 sources (41 percent) with backlogged permits. Across permitting authorities in EPA Region III, the outstanding permit renewal percentage is approximately 15 percent.

Since September 2016, ACHD has issued eight title V renewal permits. With a universe of 32 sources, if ACHD continues to issue at least eight renewal permits a year, ACHD would be on track to eliminate the title V permit backlog in the next three years. Five of the eight permits issued in the past year were initial title V permits for the subject facilities, and three of the permits issued were for support facilities co-located at larger facilities. Support facilities tend to be less complex than other facilities.

These accomplishments are promising, but EPA continues to have concerns about ACHD's ability to issue timely title V permits. Initial permits for three title V sources remain unissued, and many of the backlogged permits are for complex facilities. Additionally, ACHD stated that the issuance of minor source permits suffered as a result of efforts to attempt to reduce the title V permit backlog, indicating that permitting workloads exceed staffing levels. Understanding competing priorities of types of permits, and recognizing that additional staff are required, a sustained focus on eliminating the backlog of title V permits remains necessary.

E. Compliance

ACHD maintains separate permitting and enforcement programs. After a permit is issued, the permit is enforced by the enforcement group. If the enforcement group finds that permit conditions are not enforceable, this information is communicated to the permitting group and a note is placed in the facility's file. The permitting group is beginning to set up a process to track compliance issues so the issues can be resolved prior to issuance of renewal permits.

There are situations when compliance issues or consent decrees impact the issuance of permits. For instance, ACHD has delayed the issuance of both the Eastman Chemicals and Resins and the Allegheny Ludlum Corporation permits due to enforcement issues. EPA encourages ACHD to expediently issue these permits while recognizing that all enforcement issues may not be resolved prior to permit issuance. The title V permit provides opportunities to address on-going non-compliance while allowing for the permitting process to proceed. EPA may provide assistance through the tri-weekly calls to help navigate around these obstacles to timely title V issuance.

F. Resources and Internal Management Support

Currently, the permitting staff include six (out of seven) engineers with at least six years of experience - indicating that experience level of permit engineers is not an issue. However, the permitting staff has lost multiple engineers recently, and only one of these positions has been replaced. The previous permitting branch chief was reassigned to another group in the past year, and the position was recently filled with JoAnn Truchan, who was previously a permit engineer. This realignment resulted in the reduction of the permitting staff by one permit

engineer, a position that has not been filled or advertised. ACHD cited a hesitancy in filling positions due to title V budgetary considerations. Title V fees are discussed in more detail in the 'Title V Fees' section of this report.

Once positions are advertised, finding qualified applicants for openings is challenging. For instance, the permit engineering position most recently advertised only received one qualified applicant for the position. As another example, ACHD has advertised an opening for a data system programmer to support permitting and other ACHD programs, but as of the date of this evaluation, the position had not been filled due to a lack of qualified applicants.

Prior to the recent losses of permit engineers, ACHD had backlog of title V permits. It is an unreasonable expectation that current staffing levels are sufficient to manage workloads across all air permitting programs and to make a significant impact on the permit backlog. During the summer of 2017, three interns were utilized to assist with minor source permitting and other tasks under the supervision of more experienced personnel. Though the interns assisted with permit issuance in some instances, this strategy alone is unlikely to adequately address the workload issue.

EPA strongly recommends that ACHD should increase permit engineers staffing levels to a level sufficient for current workloads. In addition, strategies to redirect some of the work currently performed by permit engineers to non-engineers should also be considered. These strategies could include strategies previously utilized by ACHD, such as using interns with oversight by permitting staff, but additional strategies should be considered - such as increasing the administrative support available to the permitting group. This administrative support person(s) could act as a permit process manager responsible for tracking permit status and workflow, as well as other program implementation-related administrative tasks. This type of support would provide the technical staff greater time to focus on the more substantive activities related to permit development.

G. Title V Fees

According to ACHD, the revenues generated by emissions-based title V fees are diminishing as a result of emissions reductions at facilities. Maintaining adequate permit program revenue to support current title V related expenses will be an ever-increasing challenge. Reductions in title V fee revenue is not unique to ACHD. According to a 2014 US EPA Office of Inspector General report³, "...annual Title V program expenses often exceed Title V revenues, and both had generally been declining over the five-year period we reviewed (2008-2012)." Title V revenues have been decreasing nationwide because of improved source performance, more restrictive emissions requirements, and source closures. ACHD title V fees are based on the PA DEP's title V fees detailed in the Air Pollution Control Act at 25 Pa. Code §127.705.a.⁴ PA DEP's regulations require owners or operators of title V sources to pay a base fee of \$85 (in 2013 dollars) per ton

³ U.S. Environmental Protection Agency, Office of Inspector General, "Enhanced EPA oversight Needed to Address Risks from Declining Clean Air Act Title V Revenues," Report No. 15-P-0006, October 20, 2014.

⁴ See §2103.41 of ACHD Rules and Regulations, Article XXI

of regulated pollutant per year, to be adjusted annually by the increase in the Consumer Price Index. PA DEP is considering revising title V fees.

EPA recommends that ACHD work with PA DEP to modify the title V fee program to ensure revenues are adequate for current and future ACHD title V program implementation requirements. Additionally, EPA Region III intends to periodically audit state and local Title V programs' fee revenue practices.

IV. Conclusions

EPA again thanks ACHD for their hospitality and cooperation in conducting this evaluation. EPA remains concerned about the backlog to title V permits. This represents an area in need of considerable attention and resources by ACHD.

EPA identified best practices employed by ACHD, which are outlined in the following sections. Also enumerated are a number of areas where ACHD should improve its implementation of its title V permitting program. Finally, we provide a number of recommendations that may improve permit program implementation.

A. Best Practices by ACHD

- Routine engagement with EPA to discuss permit issuance status and broader program implementation challenges.
- In the past year, ACHD has improved title V permit issuance timelines through the following workload management and tool development activities:
 - Recently reassigned/redistributed title V facility responsibilities to distribute title V permits more evenly across permit engineers.
 - Modified spreadsheet tracking tools to better track permit review and issuance process.
 - Working on finalizing a "permit engineer's handbook" to improve the consistency of the permit review and issuance process.
- Posting of permits on-line during the public comment period to facilitate greater public access to draft permits.
- Pre-issuance site visits and/or communication with the source to assure application and permit accuracy.

B. Areas for Improvement

- ACHD continues to have a significant backlog of title V permits. Thirteen out of 32 permits (41 percent) are backlogged.
- A reactive approach to integrating the multiple permit program requirements can lead to a delay in the issuance of title V permits.
- Workload exceeds current staffing levels.
 - Issuance of operating permits is often delayed. Installation permits are prioritized.
 - As a result of recent focus on reducing the backlog of title V permits, minor source permit issuance has been impacted
- Improve data management systems and data entry processes. Currently, multiple programs are being used to track information.
- The existing fee structure is not situated to adapt to future circumstances and could possibly undermine long-term program sustainability.

C. Recommended Actions

- A more sustained focus on eliminating the backlog of title V permits is warranted. For each permit that is backlogged, ACHD shall submit a corrective action plan to EPA.
- More strategically integrate the multiple permit programs and permit actions so as to not delay title V permit issuance.
- Increase permit engineers and administrative staffing levels to a level sufficient for current workloads.
- Provide the permitting group with additional administrative support to facilitate tracking of title V permit actions and to alleviate administrative burdens on permit engineers and managers. Continue to utilize student interns to assist engineers in their technical work.
- Continue improving permitting process through the following:
 - Improve internal permit tracking systems
 - Better track facility response time, and establish firm response dates.
 - Develop permit templates for specific source and permit types.
 - Develop a database to track the types of equipment in each permit to facilitate modeling permits on previously issued permits.

- Work with PA DEP to modify the title V fee program to ensure revenues are adequate for current and future ACHD title V program implementation requirements.

V. Follow-up

- EPA will continue to coordinate with ACHD permitting management on a tri-weekly basis regarding permit issuance status and overall program implementation.
- EPA will provide timely support on emerging and new permit program-related regulations, guidance and policy objectives.
- EPA will continue to provide support as ACHD works with PA DEP to pursue changes to its permit fee program and related changes to its overall permit program regulatory infrastructure.